

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 473 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJU @ RAJESH @ MOHAN BK CHHARA

Versus

STATE OF GUJARAT

Appearance:

MS SUMAN PAHWA For M/S THAKKAR ASSOC. for Petitioner
MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 04/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 24th December, 1998 made by the Commissioner of Police, Ahmedabad City under the powers

conferred upon him under Sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'dangerous person' within the meaning of Section 2 (c) of the Act. Three offences punishable under Chapter XVII of the Indian Penal Code have been registered against the petitioner in various police stations in the State. Besides, two witnesses have given statements in respect of nefarious activities of the petitioner and its adverse effect on the public order.

4. The order of detention is challenged on the grounds : (a) there is an undue delay in making the order, after the above referred offences were registered against the petitioner and (b) the representation made to the detaining authority on 29th December, 1998 has not been dealt with.

5. It appears that last of the offences was registered against the petitioner on 24th July, 1998 and he was arrested on the same date. He was released on bail on 28th July, 1998. In respect of the offence registered on 21st June, 1998, the petitioner is alleged to have been arrested in the month of August, 1998. Long thereafter, the action has been taken in the month of December, 1998. It is urged that after the petitioner's release on bail in the month of August, 1998, further evidence was required to be collected in respect of the anti-social activities of the petitioner, which took sometime. I am of the view that the defence in this respect is vague and inadequate. In respect of the representation made by the petitioner on 29th December, 1998, Ms. Pahwa, the learned advocate for the petitioner has produced an Acknowledgement Slip which indicates that the registered post in question was delivered in the office of the Commissioner of Police, Ahmedabad, the detaining authority, on 31st December, 1998. It is, however, submitted that the representation was not received in the office of the detaining authority. It is not believable that the concerned post had not been delivered in the said office.

6. In view of the above facts, the continued detention of the petitioner is not warranted.

7. The petition is, therefore, allowed. The order dated 24th December, 1998; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless he is required to be detained in some

other case, be released forthwith.

8. The A.D slip produced by Ms. Pahwa has been handed over to the learned AGP Mrs. Punani. The office of Commissioner of Police, Ahmedabad will examine whether the said post was received in the said office or not and and was placed before the detaining authroity or not. The compliance report will be submitted to this Court on 31st August, 1999.

Prakash*